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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 491 OF 2016

Salim Gulam Mohammad Khan

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. Milan Desai i/b K.M. Pandey for Applicant.

Ms. Rutuja Ambekar, APP for State.

CORAM: A.S. GADKARI, J.

DATE : 13th October 2016.

P.C.

1 This is an application under Section 439 of Cr. P.C. for bail in CR No.288 of 2015 registered with Malwani Police Station, Mumbai dated 13.5.2015 under Sections 354, 354(b), 342 of the Indian Penal Code and under Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2 Heard the learned counsel for the applicant, the learned APP and also perused the entire chargesheet annexed to the application.

2 The first information report is lodged by the victim girl aged about 11 years. With a view to protect the identity of the victim girl and in

consonance with the provisions of Section 228(A) of the Indian Penal Code, the detailed narration of facts mentioned in the present application, the first information report and in the statements of the victim girl is hereby avoided. Suffice it to mention that on the basis of the first information report lodged by the victim girl, the present crime is registered against the applicant. During the course of investigation, the applicant came to be arrested on 14.5.2015. After completion of investigation, police have filed chargesheet.

3 As per facts of the case, it is the allegation against the applicant that he committed the said offence under Section 354(b) by calling the victim girl in his house. As the victim is aged 11 years the provisions of POCSO Act are also applied. The record reveals that the applicant came to be arrested on 14.5.2015 and since then he is in jail. Under the provisions of Section 354(b) of the Indian Penal Code, the minimum sentence shall not be less than three years and maximum sentence may extend upto seven years. The sentence under Section 8 of POCSO Act is upto five years. The applicant as of today has already undergone about 17 months of actual imprisonment. In view of the particular facts of the present case, the applicant has made out a case for his release on bail.

5 Hence, the following Order:

(i) The applicant be released on bail in CR No.288 of 2015 registered with Malwani Police Station, Mumbai on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from the jail, the applicant shall attend the Malwani Police Station, Mumbai on every first Monday of the month between 10.00 a.m. to 12.00 noon.

(iii) The applicant shall also attend all dates before the Trial Court.

(iv) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail.

(v) Before his release from jail, the applicant shall not enter the jurisdiction of Malwani Police Station except marking his presence on the first Monday of every month.

(vi) After his release from jail, the applicant shall furnish documents pertaining to his prospective residential address where he intends to reside after his release from jail to the

Malwani Police Station.

(vii) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

6 The Application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)